

COUNTY COMMISSION ELECTION AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Norman K Thurston

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to county commissioner elections.

Highlighted Provisions:

This bill:

- ▶ modifies the process by which a candidate for county commission is elected when there is more than one vacant county commission position; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 17-52-401**, as last amended by Laws of Utah 2012, Chapter 17
- 17-52-501**, as renumbered and amended by Laws of Utah 2000, Chapter 133
- 17-52-502**, as last amended by Laws of Utah 2005, Chapter 42
- 20A-1-508**, as last amended by Laws of Utah 2011, Chapters 35, 297, and 327
- 20A-9-409**, as enacted by Laws of Utah 2014, Chapter 17

Be it enacted by the Legislature of the state of Utah:



28 Section 1. Section **17-52-401** is amended to read:

29 **17-52-401. Contents of proposed optional plan.**

30 (1) Each optional plan proposed under this chapter:

31 (a) shall propose the adoption of one of the forms of county government listed in

32 Subsection [17-52-402\(1\)\(a\)](#);

33 (b) shall contain detailed provisions relating to the transition from the existing form of
34 county government to the form proposed in the optional plan, including provisions relating to
35 the:

36 (i) election or appointment of officers specified in the optional plan for the new form of
37 county government;

38 (ii) retention, elimination, or combining of existing offices and, if an office is
39 eliminated, the division or department of county government responsible for performing the
40 duties of the eliminated office;

41 (iii) continuity of existing ordinances and regulations;

42 (iv) continuation of pending legislative, administrative, or judicial proceedings;

43 (v) making of interim and temporary appointments; and

44 (vi) preparation, approval, and adjustment of necessary budget appropriations;

45 (c) shall specify the date it is to become effective if adopted, which may not be earlier
46 than the first day of January next following the election of officers under the new plan; and

47 (d) notwithstanding any other provision of this title and except with respect to an
48 optional plan that proposes the adoption of the county commission or expanded county
49 commission form of government, with respect to the county budget shall provide that the
50 county executive's role is to prepare and present a proposed budget to the county legislative
51 body, and the county legislative body's role is to adopt a final budget.

52 (2) Subject to Subsection (3), an optional plan may include provisions that are
53 considered necessary or advisable to the effective operation of the proposed optional plan.

54 (3) An optional plan may not include any provision that is inconsistent with or
55 prohibited by the Utah Constitution or any statute.

56 (4) Each optional plan proposing to change the form of government to a form under
57 Section [17-52-504](#) or [17-52-505](#) shall:

58 (a) provide for the same executive and legislative officers as are specified in the

59 applicable section for the form of government being proposed by the optional plan;

60 (b) provide for the election of the county council;

61 (c) specify the number of county council members, which shall be an odd number from
62 three to nine;

63 (d) specify whether the members of the county council are to be elected from districts,
64 at large, or by a combination of at large and by district;

65 (e) specify county council members' qualifications and terms and whether the terms are
66 to be staggered;

67 (f) contain procedures for filling vacancies on the county council, consistent with the
68 provisions of Section 20A-1-508; and

69 (g) state the initial compensation, if any, of county council members and procedures for
70 prescribing and changing compensation.

71 (5) Each optional plan proposing to change the form of government to the county
72 commission form under Section 17-52-501 or the expanded county commission form under
73 Section 17-52-502 shall specify:

74 (a) (i) for the county commission form of government, that the county commission
75 shall have three members; or

76 (ii) for the expanded county commission form of government, whether the county
77 commission shall have five or seven members;

78 (b) the terms of office for county commission members and whether the terms are to be
79 staggered;

80 (c) whether members of the county commission are to be elected from districts, at
81 large, or by a combination of at large and from districts; ~~and~~

82 (d) if any members of the county commission are to be elected from districts, the
83 district residency requirements for those commission members[-]; and

84 (e) if any members of the county commission are to be elected at large, that the election
85 of county commission members is subject to the provisions of Subsections 17-52-501(4) and
86 (5) or Subsections 17-52-502(4) and (5).

87 Section 2. Section 17-52-501 is amended to read:

88 **17-52-501. County commission form of government -- Commission member**
89 **elections.**

90 (1) As used in this section:

91 (a) "Midterm vacancy" means a county commission position that is being filled at an
92 election for less than the position's full term described in Subsection (4)(a) or in a county's
93 optional plan under Subsection 17-52-401(5)(b).

94 (b) "Open position" means a county commission position that is being filled at a
95 regular general election for the position's full term described in Subsection (4)(a) or in a
96 county's optional plan under Subsection 17-52-401(5)(b).

97 ~~[(+)]~~ (2) Each county operating under the county commission form of government shall
98 be governed by a county commission consisting of three members.

99 ~~[(2)]~~ (3) A county commission under a county commission form of government is both
100 the county legislative body and the county executive and has the powers, duties, and functions
101 of a county legislative body under Chapter 53, Part 2, County Legislative Body, and the
102 powers, duties, and functions of a county executive under Chapter 53, Part 3, County
103 Executive.

104 ~~[(3)]~~ (4) Except as otherwise provided in an optional plan adopted under this chapter:

105 (a) the term of office of each county commission member is four years;

106 (b) the terms of county commission members shall be staggered so that two members
107 are elected at a regular general election date that alternates with the regular general election
108 date of the other member; and

109 (c) each county commission member shall be elected:

110 (i) at large, unless otherwise required by court order[-]; and

111 (ii) subject to the provisions of this section, in accordance with Title 20A, Election
112 Code.

113 ~~[(4) (a) If two county commission positions are vacant for an election, the positions~~
114 ~~shall be designated "county commission seat A" and "county commission seat B."]~~

115 ~~[(b) Each candidate who files a declaration of candidacy when two positions are vacant~~
116 ~~shall designate on the declaration of candidacy form whether the candidate is a candidate for~~
117 ~~seat A or seat B.]~~

118 ~~[(c) No person may file a declaration of candidacy for, be a candidate for, or be elected~~
119 ~~to two county commission positions in the same election.]~~

120 (5) (a) If there is more than one open position or more than one midterm vacancy, the

121 candidates, in a number equal to the number of open positions or midterm vacancies, who
122 receive the highest number of votes are:

123 (i) for the purposes of a regular primary election, nominated by the candidates' party for
124 the open positions or midterm vacancies; and

125 (ii) for the purposes of a regular general election, elected to fill the open positions or
126 midterm vacancies.

127 (b) If there is at least one open position and at least one midterm vacancy:

128 (i) the county clerk shall designate:

129 (A) each open position as "open position"; and

130 (B) each midterm vacancy as "midterm vacancy";

131 (ii) each individual who files a declaration of candidacy shall designate on the
132 declaration of candidacy whether the individual is filing for an open position or a midterm
133 vacancy; and

134 (iii) the candidates, in a number equal to the number of open positions and midterm
135 vacancies, who receive the highest number of votes, respectively, are:

136 (A) for the purposes of a regular primary election, nominated by the candidates' party
137 for the open positions and midterm vacancies; and

138 (B) for the purposes of a regular general election, elected to fill the open positions and
139 midterm vacancies.

140 (c) An individual may not file a declaration of candidacy for an open position and a
141 midterm vacancy in the same election.

142 Section 3. Section **17-52-502** is amended to read:

143 **17-52-502. Expanded county commission form of government -- Commission**
144 **member elections.**

145 (1) As used in this section:

146 (a) "Midterm vacancy" means the same as that term is defined in Subsection
147 [17-52-501\(1\)](#).

148 (b) "Open position" means the same as that term is defined in Subsection
149 [17-52-501\(1\)](#).

150 ~~[(1)]~~ (2) Each county operating under an expanded county commission form of
151 government shall be governed by a county commission consisting of five or seven members.

152 ~~[(2)]~~ (3) A county commission under the expanded county commission form of
153 government is both the county legislative body and the county executive and has the powers,
154 duties, and functions of a county legislative body under Chapter 53, Part 2, County Legislative
155 Body, and the powers, duties, and functions of a county executive under Chapter 53, Part 3,
156 County Executive.

157 ~~[(3)]~~ (4) Except as otherwise provided in an optional plan adopted under this chapter:

158 (a) the term of office of each county commission member is four years;

159 (b) the terms of county commission members shall be staggered so that approximately
160 half the members are elected at alternating regular general election dates; and

161 (c) each county commission member shall be elected[-]:

162 (i) at large, unless otherwise required by court order; and

163 (ii) subject to the provisions of this section, in accordance with Title 20A, Election
164 Code.

165 ~~[(4) (a) If multiple at-large county commission positions are vacant for an election, the~~
166 ~~positions shall be designated "county commission seat A," "county commission seat B," and so~~
167 ~~on as necessary for the number of vacant positions.]~~

168 ~~[(b) Each candidate who files a declaration of candidacy when multiple positions are~~
169 ~~vacant shall designate the letter of the county commission seat for which the candidate is a~~
170 ~~candidate.]~~

171 ~~[(c) No person may file a declaration of candidacy for, be a candidate for, or be elected~~
172 ~~to two county commission positions in the same election.]~~

173 (5) (a) If there is more than one open position or more than one midterm vacancy, the
174 candidates, in a number equal to the number of open positions or midterm vacancies, who
175 receive the highest number of votes are:

176 (i) for the purposes of a regular primary election, nominated by the candidates' party for
177 the open positions or midterm vacancies; and

178 (ii) for the purposes of a regular general election, elected to fill the open positions or
179 midterm vacancies.

180 (b) If there is at least one open position and at least one midterm vacancy:

181 (i) the county clerk shall designate:

182 (A) each open position as "open position"; and

- 183 (B) each midterm vacancy as "midterm vacancy";
184 (ii) each individual who files a declaration of candidacy shall designate on the
185 declaration of candidacy whether the individual is filing for an open position or a midterm
186 vacancy; and
187 (iii) the candidates, in a number equal to the number of open positions and midterm
188 vacancies, who receive the highest number of votes, respectively, are:
189 (A) for the purposes of a regular primary election, nominated by the candidates' party
190 for the open positions and midterm vacancies; and
191 (B) for the purposes of a regular general election, elected to fill the open positions and
192 midterm vacancies.
193 (c) An individual may not file a declaration of candidacy for an open position and a
194 midterm vacancy in the same election.

195 Section 4. Section **20A-1-508** is amended to read:

196 **20A-1-508. Midterm vacancies in county elected offices.**

197 (1) As used in this section:

198 (a) (i) "County offices" includes the county executive, members of the county
199 legislative body, the county treasurer, the county sheriff, the county clerk, the county auditor,
200 the county recorder, the county surveyor, and the county assessor.

201 (ii) "County offices" does not mean the offices of president and vice president of the
202 United States, United States senators and representatives, members of the Utah Legislature,
203 state constitutional officers, county attorneys, district attorneys, and judges.

204 (b) "Party liaison" means the political party officer designated to serve as a liaison with
205 each county legislative body on all matters relating to the political party's relationship with a
206 county as required by Section [20A-8-401](#).

207 (2) (a) Until a replacement is selected as provided in this section and has qualified, the
208 county legislative body shall appoint an interim replacement to fill the vacant office by
209 following the procedures and requirements of this Subsection (2).

210 (b) (i) To appoint an interim replacement, the county legislative body shall give notice
211 of the vacancy to the party liaison of the same political party of the prior office holder and
212 invite that party liaison to submit the name of a person to fill the vacancy.

213 (ii) That party liaison shall, within 30 days, submit the name of the person selected in

214 accordance with the party constitution or bylaws as described in Section [20A-8-401](#) for the
215 interim replacement to the county legislative body.

216 (iii) The county legislative body shall no later than five days after the day on which a
217 party liaison submits the name of the person for the interim replacement appoint the person to
218 serve out the unexpired term.

219 (c) (i) If the county legislative body fails to appoint an interim replacement to fill the
220 vacancy in accordance with Subsection (2)(b)(iii), the county clerk shall send to the governor a
221 letter that:

222 (A) informs the governor that the county legislative body has failed to appoint a
223 replacement within the statutory time period; and

224 (B) contains the name of the person to fill the vacancy submitted by the party liaison.

225 (ii) The governor shall appoint the person named by the party liaison as an interim
226 replacement to fill the vacancy within 30 days after receipt of the letter.

227 (d) A person appointed as interim replacement under this Subsection (2) shall hold
228 office until their successor is elected and has qualified.

229 (3) (a) The requirements of this Subsection (3) apply to all county offices that become
230 vacant if:

231 (i) the vacant office has an unexpired term of two years or more; and

232 (ii) the vacancy occurs after the election at which the person was elected but before
233 April 10 of the next even-numbered year.

234 (b) (i) When the conditions established in Subsection (3)(a) are met, the county clerk
235 shall notify the public and each registered political party that the vacancy exists.

236 (ii) All persons intending to become candidates for the vacant office shall:

237 (A) file a declaration of candidacy [~~according to the procedures and requirements of~~] in
238 accordance with Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy,
239 and, for a county commission office, Subsection [17-52-501\(5\)](#) or [17-52-502\(5\)](#), if applicable;
240 and

241 (B) if nominated as a party candidate or qualified as an independent or write-in
242 candidate under Chapter 8, Political Party Formation and Procedures, run in the regular general
243 election.

244 (4) (a) The requirements of this Subsection (4) apply to all county offices that become

245 vacant if:

246 (i) the vacant office has an unexpired term of two years or more; and

247 (ii) the vacancy occurs after April 9 of the next even-numbered year but more than 75
248 days before the regular primary election.

249 (b) (i) When the conditions established in Subsection (4)(a) are met, the county clerk
250 shall notify the public and each registered political party that:

251 (A) the vacancy exists; and

252 (B) identifies the date and time by which a person interested in becoming a candidate
253 shall file a declaration of candidacy.

254 (ii) All persons intending to become candidates for the vacant offices shall, within five
255 days after the date that the notice is made, ending at the close of normal office hours on the
256 fifth day, file a declaration of candidacy for the vacant office [~~as required by~~] in accordance
257 with Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy, and, for a
258 county commission office, Subsection 17-52-501(5) or 17-52-502(5), if applicable.

259 (iii) The county central committee of each party shall:

260 (A) select a candidate or candidates from among those qualified candidates who have
261 filed declarations of candidacy; and

262 (B) certify the name of the candidate or candidates to the county clerk at least 60 days
263 before the regular primary election.

264 (5) (a) The requirements of this Subsection (5) apply to all county offices that become
265 vacant:

266 (i) if the vacant office has an unexpired term of two years or more; and

267 (ii) when 75 days or less remain before the regular primary election but more than 65
268 days remain before the regular general election.

269 (b) When the conditions established in Subsection (5)(a) are met, the county central
270 committees of each political party registered under this title that wishes to submit a candidate
271 for the office shall summarily certify the name of one candidate to the county clerk for
272 placement on the regular general election ballot.

273 (6) (a) The requirements of this Subsection (6) apply to all county offices that become
274 vacant:

275 (i) if the vacant office has an unexpired term of less than two years; or

276 (ii) if the vacant office has an unexpired term of two years or more but 65 days or less
277 remain before the next regular general election.

278 (b) (i) When the conditions established in Subsection (6)(a) are met, the county
279 legislative body shall give notice of the vacancy to the party liaison of the same political party
280 as the prior office holder and invite that party liaison to submit the name of a person to fill the
281 vacancy.

282 (ii) That party liaison shall, within 30 days, submit the name of the person to fill the
283 vacancy to the county legislative body.

284 (iii) The county legislative body shall no later than five days after the day on which a
285 party liaison submits the name of the person to fill the vacancy appoint the person to serve out
286 the unexpired term.

287 (c) (i) If the county legislative body fails to appoint a person to fill the vacancy in
288 accordance with Subsection (6)(b)(iii), the county clerk shall send to the governor a letter that:

289 (A) informs the governor that the county legislative body has failed to appoint a person
290 to fill the vacancy within the statutory time period; and

291 (B) contains the name of the person to fill the vacancy submitted by the party liaison.

292 (ii) The governor shall appoint the person named by the party liaison to fill the vacancy
293 within 30 days after receipt of the letter.

294 (d) A person appointed to fill the vacancy under this Subsection (6) shall hold office
295 until their successor is elected and has qualified.

296 (7) Except as otherwise provided by law, the county legislative body may appoint
297 replacements to fill all vacancies that occur in those offices filled by appointment of the county
298 legislative body.

299 (8) Nothing in this section prevents or prohibits independent candidates from filing a
300 declaration of candidacy for the office within the same time limits.

301 (9) (a) Each person elected under Subsection (3), (4), or (5) to fill a vacancy in a
302 county office shall serve for the remainder of the unexpired term of the person who created the
303 vacancy and until a successor is elected and qualified.

304 (b) Nothing in this section may be construed to contradict or alter the provisions of
305 Section [17-16-6](#).

306 Section 5. Section **20A-9-409** is amended to read:

307 **20A-9-409. Primary election provisions relating to qualified political party.**

308 (1) The fourth Tuesday of June of each even-numbered year is designated as a regular
309 primary election day.

310 (2) (a) A qualified political party that nominates one or more candidates for an elective
311 office under Section [20A-9-407](#) and does not have a candidate qualify as a candidate for that
312 office under Section [20A-9-408](#), may, but is not required to, participate in the primary election
313 for that office.

314 ~~[(3)]~~ (b) A qualified political party that has only one candidate qualify as a candidate
315 for an elective office under Section [20A-9-408](#) and does not nominate a candidate for that
316 office under Section [20A-9-407](#), may, but is not required to, participate in the primary election
317 for that office.

318 ~~[(4)]~~ (c) A qualified political party that nominates one or more candidates for an
319 elective office under Section [20A-9-407](#) and has one or more candidates qualify as a candidate
320 for that office under Section [20A-9-408](#) shall participate in the primary election for that office.

321 ~~[(5)]~~ (d) A qualified political party that has two or more candidates qualify as
322 candidates for an elective office under Section [20A-9-408](#) and does not nominate a candidate
323 for that office under Section [20A-9-407](#) shall participate in the primary election for that office.

324 (3) Notwithstanding Subsection (2), a qualified political party shall participate in the
325 primary election for a county commission office if:

326 (a) there is more than one:

327 (i) open position as defined in Section [17-52-501](#); or

328 (ii) midterm vacancy as defined in Section [17-52-501](#); and

329 (b) the number of candidates for the open positions or the number of candidates for the
330 midterm vacancies nominated under Section [20A-9-407](#) or qualified under Section [20A-9-408](#)
331 exceeds the number of open positions or midterm vacancies respectively.